IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3746 OF 2006
IN
SUIT NO.1720 OF 1998

Rajesh Balkrishna Kadam ..Plaintiff

V/s.

Smt.Shanta Jagjeevan Patel and others ..Defendants

Mr.Prakash Mahadik, advocate i/b. M.D.Angal for the plaintiff

CORAM : S.A.BOBDE, J.

DATE : 31ST JANUARY, 2007

P.C.

1. This is a motion for setting aside dismissal of the suit on the ground that summons were not served upon the defendants. The plaintiff has stated in their affidavit that in fact, defendants had appeared in the Court at the time of hearing of Notice of Motion No.1293 for interim relief on 8th March, 2000. When this Court granted a notice of motion, the plaintiff believed that the defendants'

advocate waived service and it is, therefore, not necessary to take the date for serving the defendants. The plaintiff has alleged that a mistake is bonafide and accordingly, delay is also bonafide.

2. Having regard to the circumstances of the case, I consider it appropriate to allow the notice of motion by setting aside the impugned order.

(S.A.BOBDE, J.)